

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 76/523,880  
Published in the Official Gazette on February 17, 2004

NEWFREY LLC,

Opposer,

v.

FASTEC INDUSTRIAL CORP.,

Applicant.

06-16-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #11

Opposition No.: \_\_\_\_\_

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
Box TTAB FEE  
2900 Crystal Drive, Room 9B-40  
Arlington, VA 22202-3514

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**NOTICE OF OPPOSITION**

NEWFREY LLC, a limited liability company organized in the State of Delaware, with a place of business at 1423 Kirkwood Highway, Newark, Delaware, 19711, believes that it will be damaged by the registration of the mark KWIKSTART shown in Application Serial No. 76/523,880.

As grounds for the opposition, it is alleged that:

1. NEWFREY LLC, through its affiliate and licensee Kwikset Corporation, ("Kwikset") now and for many years has engaged in the business of manufacturing, distributing and selling a variety of hardware and metal products, including door locks, door knobs, door handles, locksets, latchsets, keys, key blanks, keying kits and similar goods.

2. Since long prior to June 20, 2000, the date of claimed first use of applicant's mark, Kwikset or its predecessor has used the designation KWIKSET as its

name and primary identification for its business of manufacturing, distributing and selling a variety of hardware and metal products.

3. Kwikset, by itself and through its predecessor, has extensively and continuously advertised and promoted the name KWIKSET in connection with its business since long prior to June 20, 2000, the date of claimed first use of applicant's mark. As a result of such advertising and promotion, the name KWIKSET has become widely known and recognized as a famous company name.

4. At least as early as March 25, 1946, and long prior to June 20, 2000, the date of claimed first use of applicant's mark, Kwikset or its predecessor adopted and commenced to use the designation KWIKSET as a trademark for a variety of hardware and metal products, including door locks, door knobs, door handles, locksets, latchsets, keys, key blanks, and keying kits among other goods, and has continuously used said mark upon and in connection with said goods.

5. Kwikset's said KWIKSET mark is now and ever since its first use has been affixed to the goods, labels, tags and/or containers in which Kwikset's goods are packaged, shipped and sold in interstate commerce throughout the United States. By virtue of the long, continued and widespread sale of goods identified by the KWIKSET mark and the advertising and promotion of such goods, the KWIKSET mark is presently and, since long before the applicant's filing date, has been relied upon by the trade and the public as identifying products of Kwikset, and as distinguishing such products from the products of others. The KWIKSET mark is a famous mark which has come to represent extremely valuable goodwill belonging exclusively to Kwikset.

6. Kwikset is the owner in the United States Patent and Trademark Office of the following registrations, among others, for the mark KWIKSET:

<u>MARK</u>	<u>REG. NO.</u>	<u>REG. DATE</u>	<u>GOODS</u>
KWIKSET	518,394	12/6/49	doorlocks
KWIKSET	535,340	12/26/50	locksets and keys therefor
KWIKSET	603,256	3/15/55	woodworking jigs for preparing doors for the reception of lock housings and lock components including plates, cylinders, dead locks, and other lock and latch components
KWIKSET	1,357,600	9/3/85	metal building fittings, namely, locks and parts therefor; locksets, latchsets and parts therefor; door knobs; handle sets; escutcheons made primarily of metal; latch plates; strikes; key and key blanks; keying kits comprising tumbler pins, springs, and clips; door closers

Said registrations are valid and subsisting, unrevoked and uncanceled, and Kwikset is still the owner of the registrations and the marks shown therein and of all the business and goodwill connected therewith.

7. Applicant seeks to register the designation KWIKSTART as a trademark for “threaded metal fasteners” under Application No. 76/523,880.

8. The goods for which applicant seeks to register the designation KWIKSTART are closely related to Kwikset’s business and its goods. Purchasers and users of various KWIKSET products, such as door knobs, hinges, plates, and locksets, use threaded metal fasteners to install those products and threaded metal fasteners are sold as part of kits for many of its products.

9. Applicant's mark KWIKSTART so nearly resembles Kwikset's KWIKSET name and mark, previously used and registered in the United States and not abandoned, as to be likely, when applied to the goods of the applicant, to cause confusion, or to cause mistake, or to deceive with consequent injury to Kwikset, the trade and the public, in violation of Section 2 (d) of the Trademark Act, 15 U.S.C. § 1502 (d).

10. Kwikset will be damaged by the registration sought by applicant because such registration will support and assist applicant in the confusing, misleading, and deceptive use of the mark sought to be registered, and will give color of exclusive statutory rights in applicant in violation and derogation of the prior and superior rights of Kwikset.

WHEREFORE, Kwikset believes that it will be damaged by the registration of applicant's mark and prays that Application Serial No. 76/523,880 be denied pursuant to Sections 2 (a) and 2 (d) of the Trademark Act of 1946, 15 U.S.C. §§§ 1052 (a) and (d), 1063 (a), and 1125 (c).

Please recognize as attorneys for Kwikset in this proceeding, William G. Pecau (a member of the bars of the states of New York and California, and the District of Columbia) and Marc A. Paul (a member of the bars of the state of Pennsylvania and the District of Columbia) whose address is Steptoe & Johnson LLP, 1330 Connecticut Avenue, NW, Washington, DC 20036. Please address all communications to William G. Pecau, Esq. at the above address.

Enclosed please find a check for \$300.00 to cover the required fee for this Notice of Opposition. If any additional fees are due in connection with this filing, please debit our Deposit Account No. 19-4293 and provide us with a receipt.

This Notice of Opposition is submitted in duplicate pursuant to 37 C.F.R.

§ 2.104(a).

Respectfully submitted,

**STEPTOE & JOHNSON LLP**

By: 

William G. Pecan

Marc A. Paul

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Washington, DC 20036

(202) 429-6244

*Attorneys for Newfrey LLC*

Dated: June 16, 2004

STEPTOE & JOHNSON<sup>LLP</sup>  
ATTORNEYS AT LAW

TTAB

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June 16, 2004

**BY HAND DELIVERY**

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
Box TTAB-FEE  
2900 Crystal Drive, Rm 9B-40  
Arlington, VA 22202-3514

**RE: Newfrey LLC, Opposer v. Fastec Industrial Corporation, Applicant**  
**Serial No. 76/523,880**  
**Our Ref.: 14471.0011**

Dear Sir:


On behalf of Newfrey LLC, opposer in the above-referenced matter, please find for filing the Notice of Opposition. This Notice of Opposition is submitted in duplicate pursuant to 37 C.F.R. § 2.104(a).

A check in the amount of \$300.00 is enclosed to cover the required fee.

If any additional fees are due in connection with this filing, please debit our Deposit Account No. 19-4293 and provide us with a receipt.


Also enclosed is one additional copy of the Notice of Opposition to be date-stamped and returned via messenger. If you have any questions, please do not hesitate to contact me.

Sincerely,



William G. Pecau

WGP/dmh



06-16-2004

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